

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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In the Matter of)	EB Docket No. 02-149
)	
Publix Network Corporation; Customer)	File No. EB-01-TC-052
Attendants, LLC; Revenue Controls)	FRN: 0004-3412-51
Corporation; SignTel, Inc.; and Focus Group,)	
LLC)	
)	
Order to Show Cause and)	
Notice of Opportunity for Hearing)	

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Federal Communications Commission
Office of the Secretary

To: Chief Administrative Law Judge
Richard L. Sippel

**JOINT REQUEST FOR ADOPTION OF
CONSENT DECREE AND TERMINATION OF PROCEEDING**

1. The Enforcement Bureau (the "Bureau") and Publix Network Corporation, Customer Attendants, LLC, Revenue Controls Corporation, SignTel, Inc., and Focus Group, LLC, (the "Publix Companies") (collectively, the "Parties"), pursuant to section 1.94 of the Commission's rules,¹ jointly request that the presiding officer accept the attached, executed Consent Decree and issue an order, consistent with the attached Order,² adopting the Consent Decree and terminating this proceeding. In support of this Joint Request, the Parties state the following.

2. On June 19, 2002, the Commission released an *Order to Show Cause and Notice of Opportunity for Hearing* ("OSC"),³ initiating an evidentiary hearing to determine whether: (1) the Commission should revoke the operating authority of the

¹ 47 C.F.R. § 1.94 (2002).

² See 47 C.F.R. § 1.94(c)(7) (2002).

³ 17 FCC Rcd 11487 (2002).

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Publix Companies; (2) the Publix Companies and the principal or principals (including but not limited to Dr. Raanan Liebermann) of the Publix Companies should be ordered to cease and desist from any future provision of interstate common carrier services without the prior consent of the Commission; (3) the Publix Companies are entitled to any of the TRS Fund monies that they requested or received from the interstate TRS Fund; and (4) a forfeiture against any or all of the Publix Companies is warranted and, if so, the amount of the forfeiture. The Bureau was made a party to the proceeding. The OSC imposed the burdens of proceeding and proof on the Bureau.

3. On July 15, 2002, a federal grand jury returned an indictment against Dr. Liebermann and Publix Network Corporation.⁴ On July 19, 2002, pursuant to an unopposed Motion for Stay filed by the Bureau, the presiding officer issued an Order staying the proceeding until May 1, 2003 because there was substantial overlap between the issues to be litigated in the criminal case and the administrative proceeding. On May 6, 2003, the Presiding Officer stayed this matter *sine die* pursuant to a second Motion for Stay because the criminal proceeding had not yet been resolved.

4. On September 30, 2004, Dr. Liebermann and Publix Network Corporation entered into Plea Agreements with the U.S. Attorney's Office for the District of Connecticut ("U.S. Attorney's Office"). As part of the Plea Agreements, Dr. Liebermann and Publix Network Corporation pled guilty to a substitute information, which charged them both with: (1) making a false statement to the FCC through the Fund Administrator, which currently is the National Exchange Carrier Association ("NECA") in violation of 18 U.S.C. § 1001; and (2) engaging in an unlawful monetary transaction, in violation of 18 U.S.C. § 1957. (In return for their pleas to these offenses, the U.S.

Attorney's Office agreed to dismiss the original indictment.) Dr. Liebermann and Publix Network Corporation admitted requesting and receiving reimbursement from the TRS Fund for calls that included minutes where no meaningful communication was occurring, because the participants were "dotting" – striking the "period" or "dot" key on their text telephones on a regular basis in order to prevent their telephones from being disconnected from a conference call. Dr. Liebermann and Publix Network Corporation further admitted that they knew that the claims they submitted and caused to be submitted to NECA for reimbursement from the TRS Fund were materially false, fictitious, or fraudulent, because the reimbursement requests included claims for minutes that they knew did not involve any meaningful communications, but were instead artificially generated through the practice of "dotting."

5. The Consent Decree requires the following:

- (a) Dr. Liebermann and the Publix Companies agree to relinquish their authorization to operate as common carriers, which shall have the same force and effect as revocation of such authorization by the Commission. Dr. Liebermann and the Publix Companies agree to cease and desist from the provision of any interstate common carrier services without the prior consent of the Commission.
- (b) Dr. Liebermann and the Publix Network Corporation agree to abide by any and all agreements entered into by and between any of them and the Department of Justice, including, but not limited to, any agreement regarding the forfeiture of assets to satisfy, in whole or in part, the restitution amount of \$2,000,000 set forth in the Plea Agreements. Dr.

⁴ Dr. Liebermann owns the Publix Companies, which includes Publix Network Corporation.

Liebermann and Publix Network Corporation agree to abide by any and all orders issued by the United States District Court for the District of Connecticut, including but not limited to, any order regarding the payment of money or the forfeiture of assets to satisfy, in whole or in part, the restitution amount of \$2,000,000 as set forth in their Plea Agreements. All monies ultimately received by either the FCC or the Fund Administrator through the foregoing payment obligations or forfeiture will be credited towards the Reimbursement Amount (set forth in the Consent Decree).

- (c) Dr. Liebermann and the Publix Companies agree to pay the Reimbursement Amount in full within five (5) years from the Effective Date, and if they are unable to make full payment at that time, they agree not to contest a subsequent judicial finding that they are jointly and severally obligated to pay the full Reimbursement Amount.
- (d) Dr. Liebermann and the Publix Companies agree that interest will accrue, according to the guidelines as set forth by the Internal Revenue Service, on the balance of the Reimbursement Amount that has not been paid beginning 30 days from the Effective Date (set forth in the Consent Decree) and will compound annually.
- (e) Dr. Liebermann and the Publix Companies agree to provide to the Bureau copies of all financial statements provided to any federal official, probation officer, or probation entity after the Effective Date and until the Reimbursement Amount has been paid in full, and agree to report to the Bureau any payments made or assets forfeited to satisfy, in whole or in

part, any orders of restitution.

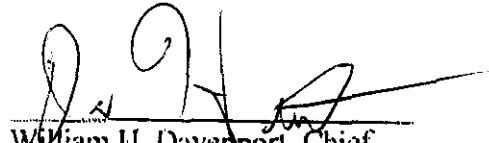
- (f) Dr. Liebermann and the Publix Companies further release, waive and discharge the Fund Administrator from any and all claims to the \$2,381,440 held or controlled by the Fund Administrator that the Publix Companies claimed were due from the TRS Fund, but that were not paid by the Fund Administrator pending the resolution of this matter

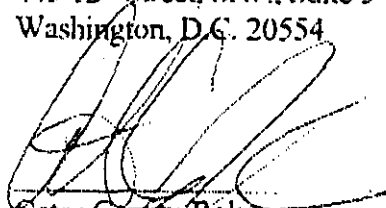
6. Accordingly, the Parties believe that the attached Consent Decree furthers the public interest by having Dr. Liebermann and the Publix Companies relinquish their authorization to operate as common carriers, agreeing to cease and desist from the provision of any interstate common carrier services without the prior consent of the Commission, and securing repayment of funds for the TRS Fund, in exchange for the prompt disposition of this proceeding's remaining issues.

- 7. Accordingly, the Parties respectfully request that the presiding officer

accept the attached, executed Consent Decree and issue an order adopting the Consent Decree and terminating this proceeding.

Respectfully submitted,



William H. Davenport, Chief
David Hunt
Investigations and Hearings Division
Enforcement Bureau
Federal Communications Commission
445 12th Street, S.W., Suite 3-B443
Washington, D.C. 20554

Gates Garntz Rokous
Wiggin and Dana LLP
One Century Tower
265 Church Street
P.O. Box 1832
New Haven, CT 06508-1832

March 9, 2005

CERTIFICATE OF SERVICE

I, Nakasha Ramsey, a staff assistant in the Enforcement Bureau's Telecommunications Consumers Division, certify that I have, on this 11th day of March 2005, sent by first class United States mail copies of the foregoing "Joint Request For Adoption of Consent Decree and Termination of Proceeding" to:

*Richard L. Sippel
Chief Administrative Law Judge
Federal Communications Commission
445 12th Street, S.W., Rm. 1-C768
Washington, D.C. 20554

Gates Garrity-Rokous
Wiggin and Dana LLP
One Century Tower
265 Church Street
P.O. Box 1832
New Haven, CT 06508-1832



Nakasha Ramsey

* Hand Delivered